IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

Crl.Rev.Pet.No. 1015 of 1999()

CC.567/1996 of JUDL.MAGISTRATE OF FIRST CLASS COURT, PARAVUR
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REVN. PETITIONER/DEFACTO COMPLAINANT:

RAJAMANI,D/O.VASUDEVA VAIDYAR,DEVASWAM PARAMBIL, CHERAI KARA, PALLIPPURAM VILLAGE.

BY ADV. SRI.T.A.SHAJI
SMT.P.M.INDU

RESPONDENTS/ACCUSED 1 AND 2 AND STATE:

1.JAYAN,S/O.KUNJIKRISHNAN,MADAVANAVEED, CHERAI, PALLIPPURAM.

2.SAJEEVAN,S/O.DASAN, PAZHEDATHUVEED, DO. DO.

3.STATE OF KERALA, REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.P.L.DEVADAS
SRI.LIFFY P. FRANCIS
PUBLIC PROSECUTOR SRI.NOBLE MATHEW

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 24/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.KOSHY, J.

Criminal R.P.No.1015 OF 1999 (C)

Dated this the 24th day of September, 2007

O R D E R

Petitioner is the de-facto complainant in C.C.No.567/1996 on the file of the Judicial First Class Magistrate Court, North Paravur. She filed Ext.P1 F.I.Statement complaining that at 11 p.m. on 21.1.1996 accused three in number committed house trespass by forcibly entering into the house and 1st accused broke open the door and uttered obscene words and caught hold of her wearing apparel and intentionally outraged her modesty. She took the knife and cried aloud and neighbours gathered and at that time accused left. There were three accused and the 3rd accused was absconding and case was split up and accused nos.1 and 2 faced trial. Even according to the petitioner her body was not touched and by the time they caught hold of her apparel, she took the knife and they left. In her deposition she stated that the incident took place on 21.1.1996 at 11 0'clock at night in her house. By hearing a knocking sound on the door of her house, she put on the light and opened the shutters of the window. Then she saw all accused standing outside the house. The accused persons

asked her to come out from his house. But she did not open the door. The accused responded saying that they would break open the door. Meanwhile they uttered obscene words. 1st accused untied the sib of his pants and began to talk about the sexual organs of the woman. A1 also uttered obscene words. They did not allow her to close the window and attempted to catch her . Thereafter accused broke open the door and entered into the house. Further the witness stated that the first accused caught hold of her . It was at that time she took the knife and then the accused ran away from the house. The witness would say that her modesty was outraged by the accused by catching hold of her . But in the F.I.Statement she has no case that 1st accused untied the sib of his pants and began to talk about the sexual organs of the woman. According to her, neighbours gathered before they left. It is also come out in evidence that she was separated from her husband and her husband is living with another lady. PW2 was examined as a neighbour living very close to the house of the petitioner. PW2 stated that there is no information about the matter on that night. She was living with another person called Sasi. She also stated that there is only hearsay information from PW1 that there is hue and cry in

the house of PW1. PW2 was in the house of one Sasi at the alleged time. Even though PW2 was cross examined nothing came out for connecting the accused with the crime. PW3 proved Ext.P3 scene mahazar and PW4 is the Additional Sub Inspector of Police who questioned the witnesses. But Ext.P1 was recorded by the Head constable Sukumaran. He was not examined. The court below found that there is deviation from the statement in Ext.P1 statement and deposition before the court and no independent evidence was adduced to prove the incident. PW2 alleged neighbour denied the matter. Even though there are close neighbours and only when neighbours gathered accused went away and none of them were examined and therefore court below acquitted the accused. I am of the view that court below has taken a possible view. This Court in a revision application will not interfere in the order of acquittal unless the judgment is perverse or contains patent illegality. I am of the view that the trial court has taken a view which is a possible one. Hence no interference is required in a revision petition and hence this revision petition is dismissed.

J.B.KOSHY, JUDGE

prp

J.B.KOSHY

Criminal.R.P.1015 OF 1999 (C)

O R D E R

24th September, 2007